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10-2-03

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q63195

Tsuneyuki KIKUCHI

Appln. No.: 09/788,566

Group Art Unit: 2661

Confirmation No.: 5930

Examiner: Unknown

Filed: February 21, 2001

For: PACKET MONITORING SYSTEM

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SEP 12 2003

Technology Center 2600

STATEMENT UNDER 37 C.F.R. § 1.704(d)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned hereby states, upon information and belief:

That each item of information contained in the Information Disclosure Statement filed concurrently herewith was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned that the communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of said Information Disclosure Statement.

Respectfully submitted,

J. Frank Osha  
Registration No. 24,625

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: September 10, 2003



2661

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INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. §§ 1.97 and 1.98

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure under 37 C.F.R. § 1.56, Applicant hereby notifies the U.S. Patent and Trademark Office of the documents which are listed on the attached PTO/SB/08 A & B (modified) form and/or listed herein and which the Examiner may deem material to patentability of the claims of the above-identified application.

One copy of each of the listed documents is submitted herewith.

1. Japanese Patent Application No. 2000-148684, published May 19, 2000 (corresponds to Japanese Unexamined Patent Application Publication No. 2001-44992, published February 16, 2001).
2. Japanese Patent Application No. 10-232440, published August 19, 1998 (corresponds to Japanese Unexamined Patent Application Publication No. 2000-69017, published March 3, 2003).

The present Information Disclosure Statement is being filed: (1) No later than three months from the application's filing date for an application other than a continued prosecution application (CPA) under

Tsuneyuki KIKUCHI

09/788,566

INFORMATION DISCLOSURE STATEMENT

§1.53(d); (2) Before the mailing date of the first Office Action on the merits (whichever is later); or (3) Before the mailing date of the first Office Action after filing a request for continued examination (RCE) under §1.114, and therefore, no Statement under 37 C.F.R. § 1.97(e) or fee under 37 C.F.R. § 1.17(p) is required.

The present Information Disclosure Statement is being filed thirty days or fewer from the communication from a foreign patent office and a Statement Under 37 C.F.R. §1.704(d) is attached.

In compliance with the concise explanation requirement under 37 C.F.R. § 1.98(a)(3) for foreign language documents, Applicant encloses herewith a copy of a Japanese Office Action dated August 12, 2003, and an English translation of the pertinent portions thereof, which cites such documents and indicating the degree of relevance found by the foreign patent office.


The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedate or otherwise remove any listed document as a competent reference against the claims of the present application.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

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Respectfully submitted,



J. Frank Osha  
Registration No. 24,625

Date: September 10, 2003

Reason

The inventions as per Claims 1 through 14 of this application are identical to inventions first described in the specification or drawings appended to Applications 1 and 2 indicated below, which are applications filed prior to but published after the filing of this application; moreover, the inventor of this application is not the same as the person who made the aforementioned inventions as per the applications filed prior to the filing of this application, and the applicant of this application at the time of its filing was not the same as the applicants of the aforementioned patent applications, and therefore the inventions as per the following claims of this application cannot be patented as per the stipulations of Article 29, Paragraph 2 of the Patent Law.

Note

1. Japanese Patent Application 2000-148684 (Japanese Unexamined Patent Application Publication 2001-44992)
2. Japanese Patent Application H10-232440 (Japanese Unexamined Patent Application Publication 2000-069017)

(Remarks)

See Cited Example 1, paragraphs 12 and 13 and figure 1.

See Cited Example 2, Claim 1.